



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable A. C. Winborn  
District Attorney  
Harris County  
Civil Courts Building  
Houston, Texas

Dear Sir:

Attention: Mr. Robert R. Casey  
Opinion No. 0-7125

Re: What power has the commissioners' court with reference to the approval or disapproval of subdivisions of real property situated outside the corporate limits of any city or town, but within the limits of the county?

Your letter of recent date requesting an opinion from this department is in part as follows:

"What power has the Commissioners' Court with reference to the approval or disapproval of subdivisions of real property situated outside of the corporate limits of any city or town, but within the limits of its County?

"With reference to this question, I wish to know whether the Commissioners' Court can refuse to approve a plat or map of any subdivision for any reason other than the fact that such map or plat does not show the connection with the original survey, or sufficient other data to locate the same in placing the property in such condition as making it practical for the purposes of taxation. In other words, can they refuse to approve a map or plat of a subdivision for the reason that the roads set forth in the subdivision are not the proper width or that the subdivider refuses to give a drainage easement to the County?"

Hon. A. C. Winborn, page 2

House Bill No. 472, Acts 1931, 42nd Leg., Regular Session, p. 371, ch. 217 (Art. 6626, V. A. C. S.) provides:

"AN ACT to amend Article 6626 of the Revised Statutes of Texas, 1925, so as to provide the prerequisites for filing and recording maps and plats subdividing or resubdividing real estate, and declaring an emergency.

"BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

"SECTION 1. That Article 6626 of the Revised Statutes of Texas, 1925, be amended so as to hereafter read as follows:

"Article 6626. The following instruments of writing which shall have been acknowledged or proved according to law, are authorized to be recorded, viz.: all deeds, mortgages, conveyances, deeds of trust, bonds for title, covenants, defeasances or other instruments of writing concerning any lands or tenements, or goods and chattels, or movable property of any description; provided, however, that in cases of subdivision or re-subdivision of real property no map or plat of any such subdivision or re-subdivision shall be filed or recorded unless and until the same has been authorized by the commissioners' court of the county in which the real estate is situated by order duly entered in the minutes of said court, except in cases of partition or other subdivision through a court of record; provided, that within incorporated cities and towns the governing body thereof in lieu of the commissioners' court shall perform the duties hereinabove imposed upon the commissioners' court."

"Sec. 2. The fact that many parcels of real estate in this State have been subdivided without establishing and showing connection with original survey or sufficient other data to locate same, and placing the property in such condition as makes it impractical for purposes of taxation, and the fact that such practice will continue unless proper legislation is enacted, creates an emergency and an

Hon. A. C. Winborn, page 3

imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be, and the same is hereby, suspended, and it is so enacted."

The Supreme Court in the case of Trawalter vs. Schaefer, 179 S. W. (2d) 765, in determining the powers conferred upon the commissioners' court by Art. 6626, supra, said:

"It is well settled as a rule of statutory construction in this State that it is proper to look to all parts of a legislative Act to ascertain its proper construction and meaning--that is, to ascertain the legislative intent. It is the legislative intent that is the law. In applying this rule courts will not look alone to one phrase, clause, or sentence of an Act, but to the entire Act; and this includes the caption, the body of the Act, and the emergency clause. 39 Tex. Jur., p. 227, § 121; Popham v. Patterson, 121 Tex. 615, 51 S. W. 2d 680; Texarkana & Ft. S. Ry. Co. v. Houston Gas & Fuel Co., 121 Tex. 594, 51 S. W. 2d 284; Winder v. King, Tex. Com. App., 1 S. W. 2d 587; Motor Inv. Co. v. City of Hamlin, Tex. Sup., 179 S. W. 2d 278; Creager v. Hidalgo County Water Improvement District, Tex. Com. App., 283 S. W. 151.

"When we come to consider the body of this Act, we find that it clothes commissioners' courts with power to determine whether or not maps or plats of land located outside of cities and towns shall be filed and recorded. When we look to the emergency clause, we find that it states that an emergency for immediate effect existed because, 'many parcels of real estate in this State have been subdivided without establishing and showing connection with original survey or sufficient other data to locate same, and placing the property in such condition as makes it impractical for purposes of taxation, and the fact that such practices will continue unless proper legislation is enacted, creates \* \* \*.' To our mind the above quoted statement of the provisions of the emergency clause to this Act, considered with the provisions of the body of the Act, shows that the Legislature intended that maps and plats of land shall receive authority from commissioners' courts to be recorded, if they establish and show the connection of such land with the original survey of which it is a part, and contain sufficient data to locate the land contained therein, and, further, place the land shown by the map or plat in such a condition as makes it practical to tax the same according thereto. Of course, this would require

Hon. A. C. Winborn, page 4

the map or plat to contain sufficient data to enable the taxing authorities to correctly carry the land on the tax rolls and avoid duplicate or double renditions of the same land. So construed, the act is not subject to the objection that it confers arbitrary or uncontrolled power on commissioners' courts, or fails to furnish such authorities with a sufficient guide to enable them to administer the same." (emphasis ours)

In view of the foregoing authorities, it is our opinion that if the maps or plats submitted to the commissioners' court "establish and show the connection of such land with the original survey of which it is a part, and contain sufficient data to locate the land shown by the map or plat in such a condition as makes it practical to tax the same according thereto", the commissioners' court cannot refuse to authorize the filing and recording of said maps or plats of subdivisions for the sole reason that roads set forth in the subdivision are not the proper width or that the subdivider refuses to give a drainage easement to the county.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By

*J. C. Davis*  
J. C. Davis, Jr.  
Assistant

By

*John Reeves*  
John Reeves

JR:LJ

RECEIVED  
COMMISSIONER  
BY *BU*  
GRAHAM